

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Cedillo Analyst: Deborah Barrett Bill Number: SB 1146  
 Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: August 8, 2008  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** FTB Disclosure Reciprocal Agreement With City /City Provide Business Tax Program Information To FTB

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

X FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED

X July 2, 2008, STILL APPLIES.

OTHER – See comments below.

**SUMMARY**

This bill would require a city that administers a business tax to provide specific data to the Franchise Tax Board (FTB) and would authorize a city to exchange data with FTB in lieu of obtaining mandated cost reimbursement.

**SUMMARY OF AMENDMENTS**

The August 8, 2008, amendments would provide an exception to the mandate for cities to provide data to FTB where FTB fails to provide tax information to a city pursuant to a reciprocal agreement for any reason other than a breach of confidentiality by the city. The August 8, 2008, amendments would also remove provisions that allow a superior court to hear an appeal of the Commission on State Mandate's ruling on whether cost reimbursement is adequate and would limit appeal to an appellate court. The August 8, 2008, amendments add a new "Technical Consideration," which is discussed below. "Suggested Amendments" to fund the Fiscal Impact for FTB to implement the bill are attached. In addition, the prior "Fiscal Impact" discussion is included below for convenience. The "This Bill" discussion is revised. The remainder of the department's analysis of the bill as amended July 2, 2008, still applies.

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
 \_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
 \_\_\_\_\_ N      \_\_\_\_\_ OUA      X PENDING

Legislative Director

Date

Brian Putler

8/22/08

## **POSITION**

Pending.

## **Summary of Suggested Amendments**

Amendment 1 is provided to suggest appropriation language to fund the department's costs.

## **THIS BILL**

This bill would do three things:

1. Enact a requirement for cities that assess a business tax or require a license to furnish specified information on the business or license holder to FTB on an annual basis;
2. Allow a city to enter into a reciprocal agreement to exchange city tax data for state income tax data and each party would absorb their own costs for providing the data in lieu of reimbursement, and
3. Provide annual funding in the Budget Act to reimburse cities for actual costs not to exceed \$1.00 per usable record, adjusted annually for the implicit price deflator and add a repeal provision in the event a determination by the Commission on State Mandates that the reimbursement does not cover a city's costs to provide data to FTB.

### **1. Enact City Business Tax Mandate**

This bill would require a city that assesses a city business tax or requires a city business license to furnish FTB, on an annual basis, information collected in the course of administering the tax or license requirements. The information required would be limited to the following:

- Name of the business if a corporation, partnership, or limited liability company, or the owner's name if a sole proprietorship
- Business mailing address
- Federal employer identification number, if applicable, or the business owner's social security number
- Standard Industry Classification Code (SIC) or North American Industry Classification Code (commonly referred to as "NAICS")
- Business start date
- Business cease date
- City number
- Ownership type

Information provided to FTB would be required to be on magnetic media, such as tapes or compact discs, through a secure electronic process, or in other machine-readable form, according to standards prescribed in regulations issued by FTB.

The cities would begin providing information as soon as economically feasible, but no later than December 31, 2009. Use of the data would be limited to state tax enforcement or as otherwise authorized by law.

Cities would not be required to provide data to FTB if FTB fails to provide tax information to a city pursuant to a reciprocal agreement with the city for reasons other than a breach of confidentiality of data by the city.

## 2. Reciprocal Agreement to Exchange Tax Data

This bill would authorize a city to enter into a reciprocal agreement with FTB to exchange tax data between the city and FTB. The bill would define reciprocal agreement to mean an agreement to exchange information for tax administration purposes between tax officials of a city and FTB. Information provided by FTB to the city would be authorized for use in administration of the city business tax or as otherwise authorized by state or federal law. If a city enters into a reciprocal agreement with FTB, both parties in the agreement would be prohibited from obtaining reimbursement of the costs to provide the data. Each party would bear its own costs.

## 3. Reimbursement Mechanisms for Cities

Reimbursement to cities for costs mandated by this bill would be provided in the annual Budget Act beginning in the 2009-10 fiscal year for FTB to reimburse a city for the cost of submitting the information prescribed in this bill. The reimbursement rate would be for actual costs incurred, not to exceed \$1.00 per usable record submitted to FTB. The reimbursement amount would be adjusted annually in the budget act for the implicit price deflator.

If the Commission on State Mandates (Commission) determines that the costs mandated by the requirements of this bill exceed the rate provided for reimbursement, the entire act would be repealed within 90 days following the date on which the Commission's determination becomes final. The repeal would be stayed if the Director of Finance files a written Notice of Intent to Appeal with the Commission within 90 days of the Commission's determination that the costs exceed the rate provided for in this bill. The Notice of Intent to Appeal would consist of a written notice setting forth the intention of the Director of Finance to seek judicial review of the determination of the Commission. If, pursuant to the appeal, a California court of appellate jurisdiction determines that the costs mandated by the state exceed the amount of reimbursement, the act would be repealed 90 days after that determination is final.

## TECHNICAL CONSIDERATION

The August 8, 2008, amendments added new language to Revenue and Taxation Code Section 19551.5 but references that same section number in the amendment. The amendment should reference the agreement under subdivision (a) of Revenue and Taxation Code Section 19551.1.

## FISCAL IMPACT

The provisions of this bill would result in approximately 450 cities providing files on an annual basis to FTB. Additional staff would be required to coordinate receipt of the files, establish secure electronic communication protocols with the cities, and test the quality of the data for departmental use. FTB estimates it will incur a one time cost of \$132,142 for technology changes and ongoing annual costs of \$708,068 in program support costs.

The current costs incurred by FTB for collecting and distributing tax data to the cities, which totaled \$260,000 in 2007, would no longer be reimbursed to FTB by the cities, but would still be incurred by FTB. FTB spent \$167,000 in 2007 to purchase tax data from cities, which would no longer be expended under this bill.

FTB estimates the first year cost to implement the provisions of the bill would be \$933,210, with annual ongoing costs of \$801,068, as reflected in the chart below.

<b>Fiscal Costs for Implementation of SB 1146</b>	
One-time Technology Costs	\$ 132,142
Ongoing Annual Program Costs	\$ 708,068
FTB Costs to Collect And Distribute Tax Data to Cities	\$ 260,000
Less Costs Currently Spent to Purchase City Tax Data	\$ 167,000
Total First Year costs	\$ 933, 210
Total Ongoing Costs (less one time cost)	\$ 801,068

In addition, cities would be reimbursed in annual budget acts for costs to provide city business tax data to FTB. Based on U.S. Census data, FTB estimates that the ratio of business tax records in relation to city size is approximately 6.65%. Based on the total California city resident population of 32 million, FTB estimates the total number of records it would receive under this bill would be 2.1 million records. Based on current participation in the local government sharing, approximately 85% of the cities would obtain reimbursement in lieu of the reciprocal agreement, which results in approximately 1.9 million records to be reimbursed at a rate of \$1.00 per record. FTB estimates an annual cost of approximately \$ 1.9 million to reimburse cities for their business tax data. The chart below details this calculation.

### **Estimated Annual Reimbursement to Cities For City Business Tax Records**

City Residents	32,104,548
Volume of records as a percentage of population	6.65%
Estimate number of records	2,134,233
Percent of records requiring reimbursement	85.43%
Estimate # of records requiring reimbursement	1,900,000
Cost per record	\$1.00
Total estimate costs to reimburse cities	\$1,900,000

The total estimated cost to FTB to implement this bill and provide reimbursement for city costs is \$2,833,210. Suggested appropriation language to fund FTB's costs is included below in this analysis.

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO SB 1146  
As Amended APTBA

AMENDMENT 1

On page 7, after line 2, insert:

SEC. 5. The sum of two million eight hundred thirty three thousand two hundred and ten dollars (\$2,833,210) is hereby appropriated to the Franchise Tax Board in augmentation of item 1730-001-0001 of the Governor's Budget, Chapter XX, Statutes of XXXX.